

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

(1) ZHN, LLC,

Plaintiff,

v.

Case No. CIV-12-1289-M

(1) RANDY MILLER, LLC,
(2) RANDY L. MILLER,
(3) LIPPARD AUCTIONEERS, INC.,
(4) TROY LIPPARD,
(5) ANGIE LIPPARD;
(6) BRADY LIPPARD,
(7) JERRY WHITNEY, and
(8) UNITED COUNTRY REAL ESTATE,
INC. d/b/a UNITED COUNTRY
AUCTION SERVICES AND UNITED
COUNTRY REAL ESTATE
SERVICES,

Defendants.

(1) RANDY MILLER, LLC,
(2) RANDY L. MILLER, and
(3) LIPPARD AUCTIONEERS, INC.,

Third Party Plaintiffs,

v.

(1) ALEXANDER MAGID
a/k/a ALEX MAGID,

Third Party Defendant.

JOINT MOTION FOR EXTENSION OF TIME

Pursuant to LCvR7.1(h), Plaintiff ZHN, LLC; Defendants Randy Miller, LLC, Randy L. Miller, Lippard Auctioneers, Inc., Troy Lippard, Angie Lippard, Brady Lippard, Jerry Whitney and United Country Real Estate, Inc. d/b/a United Country; and

Third Party Plaintiffs Randy Miller, LLC, Randy L. Miller and Lippard Auctioneers, Inc. (collectively, the “Parties”) respectfully move this Court for an Order extending the deadlines for Replies to Responses to Motions filed February 2, 2015 [Doc. 253, Doc. 254, Doc. 256, Doc. 257, Doc. 258, Doc. 261, Doc. 262, and Doc. 263]; responses/objections to requested voir dire, trial briefs, motions in limine and requested jury instructions; objections and counter-designations of deposition testimony; the Reply to Plaintiff’s Response to Defendants’ Joint Motion to Strike Kershen [Doc. 264]; and objections to counter-designations of deposition testimony. Additionally, the Parties request that this Court reschedule Docket Call. In support of this Motion, the Parties state as follows:

1. On February 26, 2015, the Parties attended a settlement conference before Judge West.
2. The settlement conference was recessed by Judge West at the end of the day and is scheduled to reconvene on March 5, 2015.
3. The following deadlines will fall before the reconvened settlement conference is scheduled to take place:
 - a. Pursuant to this Court’s Order [Doc. 285, Doc. 286], Replies to Responses to Motions filed February 2, 2015 [Doc. 253, Doc. 254, Doc. 256, Doc. 257, Doc. 258, Doc. 261, Doc. 262, and Doc. 263], are due on March 2, 2015.

- b. Pursuant to this Court's Order [Doc. 279, Doc. 284 and Doc. 143 at ¶13] responses/objections to requested voir dire, trial briefs, motions in limine and requested jury instructions are due on March 2, 2015.
 - c. Pursuant to this Court's Order [Doc. 323], objections and counter-designations of deposition testimony are due on March 3, 2015.
 - d. The Reply to Plaintiff's Response to Defendants' Joint Motion to Strike Kershen [Doc. 264] is due on March 3, 2015.
 - i. On February 3, 2015, Defendants' Joint Motion to Strike Plaintiff's Witness Drew Kershen For Failure to Comply With Fed. R. Civ. P. 26 [Doc. 264] was filed.
 - ii. On February 24, 2015, Plaintiff timely filed its Response [Doc. 321].
 - iii. Pursuant to LCvR7.1(i), Defendants' Reply is due on March 3, 2015.
 - e. Pursuant to the March Civil Trial Docket [Doc. 193], Docket Call is scheduled for March 4, 2015.
 - f. Pursuant to this Court's Order [Doc. 323], objections to counter-designations of deposition testimony are due on March 6, 2015.
4. This Court has entertained the following requests for extension of time:
- a. On February 24, 2015, the Parties filed their Joint Motion for Extension of Time [Doc. 322] requesting that this Court extend the deadline for objections and counter-designations of deposition testimony to be used at trial and the deadline for objections to counter-designations of deposition testimony to be used at trial. This Court granted such request. [Doc. 323].

- b. On February 23, 2015, Plaintiff filed its Motion for Extension of Time [Doc. 313] requesting that this Court extend the deadline for the Parties to file their Final Pretrial Report to February 24, 2015. This Court granted such request [Doc. 318].
- c. On February 18, 2015, the Parties filed their Joint Motion for Extension of Time [Doc. 283] requesting that this Court extend the deadline for the Parties to respond to motions filed on February 2, 2015 [Doc. Nos. 253, 254, 256, 257, 258, 261, 262 and 263] to February 26, 2015. This Court granted such request [Doc. Nos. 285, 286].
- d. On February 18, 2015, the Parties filed their Joint Motion for Extension of Time Regarding Jury Instructions [Doc. 281] requesting that this Court extend the deadline for the Parties to submit jury instructions to February 23, 2015. This Court granted such request [Doc. 284].
- e. On February 17, 2015, the Parties filed their Joint Motion for Extension of Time [Doc. 278] requesting that this Court extend the deadline for designations of deposition testimony to be used at trial, motions in limine, requested voir dire, trial briefs and the Final Pretrial Report to February 23, 2015. On February 18, 2015, this Court granted such request [Doc. 279].
- f. On February 13, 2015, Third Party Defendant Alexander Magid a/k/a Alex Magid filed his Motion to Defer Compliance with the Amended Scheduling Order [Doc. 276]. Such Motion is currently pending before the Court.

- g. On January 22, 2015, Defendants Angie Lippard, Brady Lippard, Troy Lippard, Jerry Whitney, Lippard Auctioneers, Inc., and United Country Real Estate, Inc. d/b/a United Country and Defendants Randy Miller, LLC and Randy L. Miller jointly filed a motion for an extension of time [Doc. 231] of one business day within which to file a response to Plaintiff's Motion for Summary Judgment [Doc. 185]. This Court granted such request [Doc. 232].
- h. On December 16, 2014, Plaintiff ZHN, LLC moved for an extension of time [Doc. 154] to respond to Defendants Randy L. Miller's and Randy Miller, LLC's Motion for Summary Judgment [Doc. 135]. This Court granted such request [Doc. 172].
- i. On December 2, 2014, Defendants Angie Lippard, Brady Lippard, Troy Lippard, Jerry Whitney, Lippard Auctioneers, Inc., and United Country Real Estate, Inc. d/b/a United Country and Defendants Randy Miller, LLC and Randy L. Miller filed their Third Motion for New Scheduling Order and Motion to Strike Trial Date [Doc. 136]. This Court granted such request [Doc. 143].
- j. On June 18, 2014, all parties jointly filed an agreed Second Motion for a New Scheduling Order [Doc. 94]. This Court granted such request [Doc. 96].
- k. On February 20, 2014, all parties jointly filed an agreed Motion for New Scheduling Order [Doc. 65]. This Court granted such request [Doc. 66].

1. On October 4, 2013, Plaintiff ZHN, LLC filed a Motion for Extension of Deadline to Amend/Join Parties [Doc. 27]. This Court granted such request [Doc. 29].
5. The Parties respectfully request that the deadline regarding Replies to Responses to Motions filed February 2, 2015 [Doc. 253, Doc. 254, Doc. 256, Doc. 257, Doc. 258, Doc. 261, Doc. 262, and Doc. 263], responses/objections to requested voir dire, trial briefs, motions in limine and requested jury instructions, as set forth in Paragraph 3(a)-(b), *supra*, be extended from March 2, 2015, to March 6, 2015.
6. The Parties respectfully request that the deadline regarding objections and counter-designations of deposition testimony and the Reply to Plaintiff's Response to Defendants' Joint Motion to Strike Kershen [Doc. 264], as set forth in Paragraph 3(c)-(d), *supra*, be extended from March 3, 2015, to March 6, 2015.
7. The Parties respectfully request that the Docket Call, as described in Paragraph 3(e), *supra*, be rescheduled from March 4, 2015, to March 6, 2015.
8. The Parties respectfully request that the deadline regarding objections to counter-designations of deposition testimony, as set forth in Paragraph 3(f), *supra*, be extended from March 6, 2015, to March 9, 2015.
9. The Parties submit this Motion jointly and by agreement.
10. Rescheduling of the Docket Call and extension of the deadlines described herein are requested for purposes of economy in the hope that this matter may be settled.
11. The impact of this Motion will be (1) to extend all deadlines currently falling on March 2, 2015, and March 3, 2015, to March 6, 2015; (2) to reschedule Docket

Call from March 4, 2015 to March 6, 2015; and (3) to extend the deadline for objections to counter-designations of deposition testimony from March 6, 2015, to March 9, 2015.

RELIEF REQUESTED

For the foregoing reasons, the listed Parties respectfully request that this Court enter an Order regarding the following:

1. That the deadline regarding Replies to Responses to Motions filed February 2, 2015 [Doc. 253, Doc. 254, Doc. 256, Doc. 257, Doc. 258, Doc. 261, Doc. 262, and Doc. 263], responses/objections to requested voir dire, trial briefs, motions in limine and requested jury instructions, as set forth in Paragraph 3(a)-(b), *supra*, be extended from March 2, 2015, to March 6, 2015.
2. That the deadline regarding objections and counter-designations of deposition testimony and the Reply to Plaintiff's Response to Defendants' Joint Motion to Strike Kershen [Doc. 264], as set forth in Paragraph 3(c)-(d), *supra*, be extended from March 3, 2015, to March 6, 2015.
3. That the Docket Call, as described in Paragraph 3(e), *supra*, be rescheduled from March 4, 2015, to March 6, 2015.
4. That the deadline regarding objections to counter-designations of deposition testimony, as set forth in Paragraph 3(f), *supra*, be extended from March 6, 2015, to March 9, 2015.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of February, 2015, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic filing to the following ECF registrants:

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